

EXHIBIT K

Nypd Patrol Guide Procedure No. 212-68



PATROL GUIDE

Section: Command Operations		Procedure No: 212-68	
CONFIDENTIAL INFORMANTS			
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PURPOSE

To register confidential informants for the purpose of developing information for investigations, to record confidential informant activity, and to obtain information from the Confidential Informant Database.

DEFINITIONS

CONTACT - A uniformed member of the service who has developed a confidential relationship with an informant for the purpose of obtaining criminal intelligence.

CONFIDENTIAL INFORMANT - An individual approved by the Department and registered with the Intelligence Bureau who provides useful and credible information to the contact regarding criminal activities, and from whom the contact expects or intends to obtain additional useful and credible information regarding such activities in the future.

CONFIDENTIAL INFORMANT REVIEW COMMITTEE - A committee charged with reviewing decisions relating to the registration and use of confidential informants. The Confidential Informant Review Committee shall be chaired by the Chief of Department, and shall be composed of representatives from the Deputy Commissioner, Operations, the Organized Crime Control Bureau (OCCB), the Detective Bureau, the Transit Bureau, the Housing Bureau, the Internal Affairs Bureau (IAB), the Counterterrorism Bureau, the Intelligence Bureau, and the Patrol Services Bureau. The committee will review reports provided by the Intelligence Bureau annually and determine whether and under what conditions an individual should be used as a confidential informant.

SCOPE

No member will use a confidential informant unless such person is properly registered with the Department as a confidential informant in accordance with this procedure. Use of unregistered informants may result in disciplinary action. All use of the confidential informant must be conducted exclusively through the member of the service designated as the contact, the contact's immediate supervisor, or if they are unavailable, the designated alternate. For the safety of the confidential informant there should be no deviation from this policy without the personal approval of the bureau chief/deputy commissioner of the member of the service designated as the contact. Such an approval will be documented in writing and filed in the confidential case folder.

PROCEDURE

When a contact develops a confidential relationship with an informant who offers, or proposes to offer, information:

CONTACT

1. Notify supervisor immediately.

FIELD INTELLIGENCE OFFICER

2. Perform the duties of the supervisor outlined in this procedure, if assigned to the contact's command.

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- SUPERVISOR** 3. Interview informant.
- AND CONTACT** 4. Prepare original and one copy of Department form **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST (PD378-161)** and **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST SUPPLEMENTAL (PD378-161A)**.
- a. Both forms are available from the Quartermaster Section and/or via the Department intranet and must be typed
 - b. "AUTHENTICATED SIGNATURE CERTIFICATION" and "AUTHORIZING SIGNATURES" sections on **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST** must bear original signature only – no photocopies.
5. Conduct computer checks listed on **CONFIDENTIAL INFORMANT COMPUTER DATABASE CHECKS (PD314-091)**, available via the Department intranet, for prospective confidential informants.
- a. A copy of the results will be attached to the **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST** and **SUPPLEMENTAL**
 - b. The **CONFIDENTIAL INFORMANT COMPUTER DATABASE CHECKS** and a copy of the results will be included in the command's Confidential Informant folder.
6. Obtain two current, clear head and shoulder color photographs (no hats, sunglasses, etc.) of prospective informant.
- a. Only color photographs of the prospective informant are acceptable
 - b. Instant or digital photographs may be used
 - c. Criminal defendant, Photo Manager and Photo Imaging Module photographs are not to be utilized for this purpose.
- SUPERVISOR** 7. Attach photographs and required computer checks conducted in step "5" above to the original and one copy of the **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST** and **SUPPLEMENTAL**.
8. Debrief prospective informant concerning:
- a. Criminal activity reported to the contact
 - b. Seven index crimes, shooting incidents, firearms, controlled substances, marijuana, gangs and any other significant criminal activity
 - c. Terrorism related groups, individuals, locations, vehicles involved in terrorist acts, conspiracies, threats, surveillance, financing, lodging, travel, etc.
 - d. Corruption involving any City, State, or Federal employee.
9. Obtain permission from the Assistant District Attorney concerned for registration, if a prospective confidential informant is a defendant in an active criminal case.
- a. Department personnel assigned to specialty units, (e.g., District Attorney's Office Squad, etc.), who register a confidential informant are NOT exempt from following this procedure.

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**SUPERVISOR
(continued)**

10. Ascertain from the prospective informant if he or she is, or has been registered as a confidential informant with ANY law enforcement agency.
 - a. If yes, confer with the appropriate law enforcement agency, through the Intelligence Bureau.
11. Direct the prospective informant to:
 - a. Sign the **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST**, in your presence
 - b. Refrain from any criminal activity except under the direction and supervision of the Department (e.g., controlled buys, vice enforcement, etc.)
 - c. Notify contact or supervisor immediately if arrested for any offense.
12. Recommend approval/disapproval of the prospective confidential informant by endorsing the **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST**.
 - a. If informant is not recommended for registration, document reason(s) and forward in the same manner (this information may be valuable when considering registration of the individual at a future date).
13. Forward request to Borough/Division Commanding Officer.
 - a. A **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST** initiated by a precinct, police service area, or transit district must be approved by the commanding officer prior to being forwarded to Borough/Division Commanding Officer.

**BOROUGH/
DIVISION
COMMANDING
OFFICER**

14. Review and recommend approval or disapproval by endorsement.
15. Ensure delivery of request (by hand) in a sealed envelope, to the bureau coordinator designated to process requests.

**BUREAU
CHIEF**

16. Designate a confidential informant coordinator in the rank of lieutenant or above to process all **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST(S)** and **SUPPLEMENTAL(S)**.

**BUREAU
COORDINATOR**

17. Scan informant's photograph and enter appropriate information into the Confidential Informant Database.
18. Review and recommend approval or disapproval by endorsement.
19. Forward to bureau chief.
20. Ensure appropriate information contained in **CONFIDENTIAL INFORMANT INFORMATION CHANGE, ACTIVITY AND PAYMENT (PD378-083)** reports are entered into the Confidential Informant Database.

**BUREAU
CHIEF**

21. Evaluate recommendations.
22. Give final approval/disapproval for registration and inclusion in Confidential Informant Database.
23. Notify bureau coordinator designated to process requests, of results.

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**BUREAU
COORDINATOR**

24. Upon approval/disapproval by bureau chief, distribute **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST** and **SUPPLEMENTAL** as follows:
 - a. Original to bureau file with photograph
 - b. One copy to contact/supervisor with photograph (maintained in Confidential Informant folder).
25. Notify commanding officer of contact of approval/disapproval by telephone.
26. Maintain active file of informants with separate folder for each informant.
27. Designate specific members who have access to folders in active file and designate specific folder(s) to which they have access.
28. Forward a listing of confidential informants to commanding officers of subordinate commands on a quarterly basis.
 - a. Bureaus that do not permanently register confidential informants (e.g., Patrol, Transit, and Housing) are exempt from this requirement.

**TO MONITOR THE STATUS OF CONFIDENTIAL INFORMANTS
REGISTERED WITH THIS DEPARTMENT:****SUPERVISOR
AND CONTACT**

29. Maintain file of active, registered informants, with separate folders for each informant, in a centrally located, secure, locked file.
30. Maintain file for those informants:
 - a. Not recommended for registration
 - b. Deactivated as per step "34" below.
31. Ensure security of all folders.
32. Require contacts to submit written reports on **CONFIDENTIAL INFORMANT INFORMATION CHANGE, ACTIVITY AND PAYMENT** for each interaction with an informant and file in the informant's folder.
 - a. If information supplied by the informant is used, include an evaluation of the quality and accuracy of that information in the report.
33. Forward a copy of report to designated bureau coordinator for entry into the Confidential Informant Database.
34. Deactivate a confidential informant if the confidential informant:
 - a. Becomes involved with criminal activity while not under the direction and supervision of the contact or supervisor and such involvement compromises the informant's ability to function as a confidential informant for this Department; OR
 - b. Is found to have been untruthful or if there is reason to suspect that the informant has been untruthful in information related to his or her confidential informant function; OR
 - c. Has not maintained regular/scheduled contact.
35. Prepare **Typed Letterhead** containing the details of the incident, and forward to the bureau chief concerned immediately when notified that a confidential informant has been arrested.

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- SUPERVISOR AND CONTACT (continued)**
36. Submit quarterly reviews of active confidential informants using the **CONFIDENTIAL INFORMANT INFORMATION CHANGE, ACTIVITY AND PAYMENT** and forward to bureau coordinator.
- a. Include confidential informants deactivated during the review period.
- INTELLIGENCE BUREAU**
37. Any changes to the confidential informant's status will be recorded on a **CONFIDENTIAL INFORMANT INFORMATION CHANGE, ACTIVITY AND PAYMENT** report and reported to the bureau chief concerned through channels.
- a. The bureau coordinator will enter the information into the Confidential Informant Database.
38. Restore a deactivated informant to active file when appropriate:
- a. Re-interview and process
- b. Reassign previous active file identification number.
39. Using facial recognition software, scan photograph to determine if the confidential informant currently exists in the database under a different identity, and to see if the confidential informant is actively registered with the Department.
- a. If the confidential informant is actively registered, notify appropriate bureau
- b. If the confidential informant is in the database, but not actively registered, forward all relevant information to the appropriate bureau.
40. Maintain Confidential Informant Database.
41. Provide database reports to Confidential Informant Review Committee upon request.

TO OBTAIN THE SERVICES OF A CONFIDENTIAL INFORMANT DURING THE COURSE OF AN OFFICIAL INVESTIGATION:

- UNIFORMED MEMBER OF THE SERVICE**
42. Prepare **CONFIDENTIAL INFORMANT DATABASE INQUIRY (PD378-162)** for signature of commanding officer, addressed to Commanding Officer, Intelligence Bureau, requesting a search of the database for a confidential informant who may be of assistance in an official investigation.
43. Fax **CONFIDENTIAL INFORMANT DATABASE INQUIRY** to the Intelligence Bureau.
- a. The requesting officer **MUST** make telephone contact with the Intelligence Bureau verifying receipt of the form and record this verification in the Telephone Record noting the rank, and name of Intelligence Bureau member acknowledging receipt
- b. The original **CONFIDENTIAL INFORMANT DATABASE INQUIRY** form **MUST** be forwarded to the Intelligence Bureau within twenty-four hours via Department mail
- c. Requesting commands will maintain a log of all **CONFIDENTIAL INFORMANT DATABASE INQUIRY(S)** forwarded to the Intelligence Bureau.

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- INTELLIGENCE BUREAU** 44. Conduct search of Confidential Informant Database.
a. If search reveals a potentially useful informant, notify confidential informant's contact and advise of request
b. Notify requesting member of the service if search reveals no available confidential informant.
- CONTACT** 45. Confer with appropriate captain from OCCB, the Detective Bureau, Intelligence Bureau or IAB to determine if authorization to use confidential informant will be granted.
- CAPTAIN, OCCB/DETECTIVE BUREAU/INTELLIGENCE BUREAU/IAB** 46. Review request and approve/disapprove, as appropriate.
47. Notify Intelligence Bureau of approval/disapproval.
- INTELLIGENCE BUREAU** 48. Advise requesting member of the service of approval/disapproval to use confidential informant.
a. If authorization is granted to use the confidential informant, provide to requesting member the identity and command of the contact.
49. Forward a monthly report to all commands that submitted any **CONFIDENTIAL INFORMANT DATABASE INQUIRY**.
- INTEGRITY CONTROL OFFICER** 50. Review and inspect entries for accuracy and ensure the integrity of the system by conducting an investigation when warranted, when a monthly report is received, as indicated in step "49" above.
- UNIFORMED MEMBER OF THE SERVICE** 51. Confer with contact to initiate use of confidential informant.
- INTELLIGENCE BUREAU, INTEGRITY CONTROL OFFICER** 52. Conduct monthly audits of requests for the services of confidential informants and confer with the commanding officers of requesting members to ensure the legitimacy of these requests.

ADDITIONAL DATA**OPERATIONAL CONSIDERATIONS**

*If exigent circumstances exist, a supervisor in the rank of captain or above in the bureau concerned may give permission for provisional registration of a confidential informant. The requesting command is required to immediately fax a copy of the **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST** and **SUPPLEMENTAL** to the Intelligence Bureau. If provisional registration of a confidential informant is approved, the Intelligence Bureau, Public Security Section must be notified to check the Confidential Informant Database to ensure the provisional confidential informant is not previously registered with the Department. This provisional registration does not exempt members of the service from complying with this procedure within seventy-two hours.*

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**ADDITIONAL
DATA
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*For priority investigations (e.g., homicides, shootings, serious assaults, etc.), a supervisor in the rank of captain or above may request confidential informant and contact information from the Intelligence Bureau directly by telephone. The form **CONFIDENTIAL INFORMANT DATABASE INQUIRY** will also be prepared and forwarded to the Intelligence Bureau within twenty-four hours via Department mail for requests made under these circumstances.*

*A supervisor, preferably the immediate supervisor of the contact, will be physically present at all meetings (e.g., debriefings, controlled buys, payments, etc.) between a confidential informant and a contact. The supervisor will review the **CONFIDENTIAL INFORMANT INFORMATION CHANGE, ACTIVITY AND PAYMENT** report, complete the captions in the "Verifying Supervisor" section and sign the completed report. Whenever a payment is made to a confidential informant, the supervisor will also verify the payment by signing under the appropriate caption in the "Payment" section of the report. A supervisor is not required to attend meetings between members of the Intelligence Bureau and confidential informants registered to the Intelligence Bureau. However, a supervisor will attend such meetings when practicable and in all cases when payment is to be tendered to the confidential informant.*

OPERATIONAL CONSIDERATIONS FOR PATROL, HOUSING AND TRANSIT BUREAU UNITS

Patrol, Housing and Transit Bureau units may register a confidential informant for a period of no more than thirty days, during which time the informant may be used once. At the end of this thirty day period, the confidential informant will be automatically deactivated in the Confidential Informant Database. However, immediately after employing the services of the confidential informant and prior to the lapse of the thirty day activation period, the Patrol/Housing/Transit Bureau contact will notify their respective bureau confidential informant coordinator regarding the confidential informant's possible use by another Department bureau/unit other than Patrol/Housing/Transit Bureau commands. The bureau coordinators will consider each confidential informant's field of knowledge, as well as other relevant factors, when determining the appropriate investigative bureau/unit for possible future use. Every effort will be made to refer potentially useful confidential informants to the appropriate investigative unit for further development and future use. Bureaus or units that subsequently register these Patrol/Housing/Transit Bureau confidential informants will do so in strict compliance with the provisions contained in this procedure.

Patrol/Housing/Transit Bureau commands may not use the field intelligence officer as the registering supervisor solely to circumvent the thirty day activation and single use limitation contained in the paragraph above.

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**ADDITIONAL
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Restrictions and Special Conditions for Registering Confidential Informants:

<i>IF the prospective confidential informant is:</i>	<i>THEN before registration the contact must:</i>
<i>Less than 18 years of age</i>	<i>Have a parent or guardian present and obtain written permission by co-signing the registration form.</i>
<i>On Probation</i>	<i>Obtain permission from the probation officer. Document time/date/to whom you spoke.</i>
<i>On Parole</i>	<i>Obtain written permission from the Division of Parole.</i>
<i>Wanted on a warrant</i>	<i>Have the warrant vacated. A supervisor in the rank of captain or above must indicate on the registration form the reason for vacating the warrant and specifically what information the confidential informant will provide.</i>
<i>Defendant in an active criminal case</i>	<i>Obtain permission from the Assistant District Attorney concerned.</i>

Personnel assigned to precinct, housing and transit patrol operations will never use a confidential informant to conduct any type of controlled buys, vice enforcement, etc.

CONFIDENTIAL INFORMANT DATABASE

The Intelligence Bureau will query the Confidential Informant Database. If the confidential informant is already registered with the Department or has previously been disapproved as an informant, the Intelligence Bureau will immediately notify the bureau concerned and the request will be disapproved. If the confidential informant is registered but inactive due to failure to maintain regular or scheduled meetings, the existing contact must deactivate the confidential informant before the request can be approved.

In situations in which a confidential informant's identity may compromise a sensitive investigation, e.g., internal investigation or counterterrorism, the member of the service must receive written permission from the bureau chief to exclude personal identifiers from the Intelligence Bureau Database. This documentation will be included in the case file.

The identity of a confidential informant will be kept confidential and will be divulged only on a need-to-know basis. The Commanding Officer, Intelligence Bureau will institute necessary measures and procedures to limit access to the database and to ensure that confidentiality is maintained. Only members specifically designated by the Commanding Officer, Intelligence Bureau will have access to the Confidential Informant Database. The Commanding Officer, Intelligence Bureau will review the confidential performance indexes of designated members on a semiannual basis and discontinue their designation if they are found unsuitable for any reason.

DEPARTMENT POLICY

Confidential informants must be vetted before being activated for Department operations. Accordingly, queries of various offender registries should also be included as part of the process and the appropriate action taken, to ensure that informants are in compliance with federal, state and local laws.

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All active confidential informants **MUST** be reviewed, evaluated and **rated** by the designated contact and supervisor on the **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST** on a quarterly basis. These forms **MUST** be submitted to the bureau coordinator by March 15, June 15, September 15, and December 15. Failure to submit the form in a timely manner could result in disciplinary action. If a quarterly review for a confidential informant is not submitted in a timely fashion, the confidential informant will be automatically deactivated in the Confidential Informant Database and permission to employ that confidential informant will be revoked. The confidential informant can **ONLY** be reactivated by submitting a new **CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST** and **SUPPLEMENTAL**.

Informants play a critical role in crime fighting and intelligence gathering operations, and additional background information supplied by informants could prove useful in the furtherance of investigations conducted by the Department. Types of information considered of value for storage within the Intelligence Data System include but are not limited to:

- Military training
- Language capabilities
- Place of birth (region, village, tribe)
- Gang affiliation
- Education level and related degrees
- Professional licenses/skills
- Marital status and next of kin
- Social networking information

If a potential confidential informant does not want to provide the above information, he or she should still be accepted if he or she passes all other requirements.

MEMORANDUM OF UNDERSTANDING CONSIDERATIONS

Units governed by a memorandum of understanding or similar stipulation between this Department and other law enforcement agencies (e.g., Drug Enforcement Task Force, etc.) are exempt from those provisions of this procedure that are in conflict with the controlling memorandum of understanding. Members assigned to such units will conform to the policies and procedures stipulated within the memorandum of understanding regarding confidential informants. Similarly, Department personnel assigned to contribute to an investigation under the jurisdiction of a federal law enforcement agency may be required to adhere to the confidential informant guidelines of that agency. Written authorization for this exemption must be obtained in advance from the bureau chief concerned.

Commanding officers assigned to task forces that are governed by a memorandum of understanding are to instruct Department personnel on the provisions of the memorandum, as well as the informant related guidelines (e.g., the United States Attorney General's Guidelines, Federal Bureau of Investigation's policies, etc.) of the lead task force agency, if applicable.

**RELATED
PROCEDURES**

Search Warrant Applications (P.G. 212-75)
Search Warrant Execution (P.G. 212-105)
Search Warrant Post-Execution Critique (P.G. 212-106)

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**FORMS AND
REPORTS**

CONFIDENTIAL INFORMANT DATABASE INQUIRY (PD378-162)
*CONFIDENTIAL INFORMANT INFORMATION CHANGE, ACTIVITY AND
PAYMENT (PD378-083)*
*CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST
(PD378-161)*
*CONFIDENTIAL INFORMANT REGISTRATION/REACTIVATION REQUEST
SUPPLEMENTAL (PD378-161A)*
CONFIDENTIAL INFORMANT COMPUTER DATABASE CHECKS (PD314-091)
Typed Letterhead